

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
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UNITED STATES OF AMERICA,
Plaintiff,
vs.
RUSSELL FRAUENDORFER,
Defendant.

OFFICE OF THE CLERK

8:04CR64

ORDER

RUSSELL FRAUENDORFER,
Defendant.

This matter is before the court on defendant Russell Frauendorfer's ("Frauendorfer") Motion to Compel Service (Filing No. 100). In the motion, Frauendorfer requests this court to compel service of documents and orders filed, but not served on Frauendorfer. Specifically, Frauendorfer requests: 1) copies of docket entries on September 21, 2007, and September 25, 2007; 2) a copy of the Government's Answer to Defendant's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Filing No. 98); 3) a copy of the Brief in Support of the United States' Answer to Defendant's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (Filing No. 99); 4) the United States to file a certificate of service attesting to the service of Filing Nos. 98 and 99 with the Clerk of the Court; and 5) a copy of the corresponding civil docket sheet in this matter from Case No. 8:07CV131.

1. Docket Entries on September 21, 2007, and September 25, 2007

Frauendorfer claims the docket entries on September 21, 2007, and September 25, 2007, signify a modification of the court's Memorandum and Order of September 21, 2007 (Filing No. 97). Frauendorfer is mistaken. In this court's Memorandum and Order of September 21, 2007, the court ordered the United States to file an answer, motion, or other response to the defendant's § 2255 Motion within thirty days from the date of the order. Therefore, the United States had until November 20, 2007, to file its response. The docket entries on these dates did not modify this court's order of September 21, 2007. Rather, the entries internally flag the United States' deadline of November 20, 2007, to respond or answer. These entries are not sent to the parties in this case or in any case as evidenced

by the "(Court Only)" notation. As such, Frauendorfer is not entitled to copies of these "court only" utilities. Furthermore, the entries do not provide any information new to his case other than that which was evident in this court's order of September 21, 2007. Thus, Frauendorfer's request is denied.

2. Copies of the United States' Answer (Filing No. 98), Brief (Filing No. 99) and Request of Certificate of Service

Frauendorfer states in his motion that he did not receive copies of the United States' Answer (Filing No. 98) and Brief (Filing No. 99) in response to Frauendorfer's § 2255 Motion. On October 22, 2007, the United States filed both its Answer and Brief to Frauendorfer's § 2255 Motion. Attached to both the United States' Answer and Brief was a certificate of service to the defendant as his last known address:

Mr. Russell J. Frauendorfer
FCI - Sandstone Kettle River Road
19365-047
PO Box 1000
Sandstone, MN 55072

See Filing Nos 98 and 99. This is the same return address Frauendorfer listed on the envelope sent to the Clerk's Office with the current motion. The only difference is that Frauendorfer made specific notation to "H-Unit." Accordingly, the Clerk of the Court is ordered to re-send a copy of the United States' Answer (Filing No. 98) and Brief (Filing No. 99) to the below address:

Mr. Russell J. Frauendorfer
FCI - Sandstone Kettle River Road
19365-047, H-Unit
PO Box 1000
Sandstone, MN 55072

Additionally, because the United States already served these documents to Frauendorfer at his last known address, Frauendorfer's request for the United States to file a certificate of service is denied.

3. Copy of the Corresponding Civil Docket Sheet in the Current Matter

Finally, Frauendorfer requests a copy of the corresponding civil docket sheet in this matter. Frauendorfer states in his motion that he has previously obtained the criminal

docket sheets in this matter. The pleadings in § 2255 motions are completed on the criminal docket, resulting in an essentially blank civil docket sheet. However, for Frauendorfer's peace of mind, the Clerk of the Court is instructed to send Frauendorfer a copy of the corresponding civil docket sheet in Case No. 8:07CV131 at the above address.

THEREFORE, IT IS ORDERED:

1. Frauendorfer's Motion to Compel Service is granted in part and denied in part.
2. Frauendorfer's request for the "Court Only" entries on September 21, 2007, and September 25, 2007, is denied.
3. The Clerk of the Court is ordered to send Frauendorfer a copy of the Government's Answer to Defendant's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Filing No. 98) and a copy of the Brief in Support of the United States' Answer to Defendant's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (Filing No. 99) to the above corrected address.
4. The Clerk of the Court is ordered to send Frauendorfer a copy of the corresponding civil docket sheet from Case No. 8:07CV131.

DATED this 20th day of November, 2007.

BY THE COURT:



s/ Joseph F. Bataillon
United States District Judge